

Sim & McBurney*Patent and Trade Mark Agents*

330 University Avenue
6th floor
Toronto, Canada
M5G 1R7

Telephone (416) 595-1155
Fax (416) 595-1163

MICHAEL I. STEWART
ROGER T. HUGHES, Q.C.
TONI POLSON ASHTON
JOHN H. WOODLEY
KENNETH D. MCKAY
TIMOTHY M. LOWMAN
STEPHEN M. LANE
ARTHUR B. RENAUD
STEPHEN J. PERRY
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KIMBERLY A. MCMANUS
WENDY M. NOSS
MATTHEW D. POWELL
REBECCA M. EAGEN
COBY A.B. SCHNEIDER

SENIOR CONSULTANT
PETER W. MCBURNEY

TECHNICAL ASSISTANTS
MICHAEL S. COLUCCI, Ph.D.
ANDREW R.O. JONES, B.A., LL.B.
MARCO M. CLEMENTONI, B. MATH.
KENNETH M. T. MURPHY, B.Sc.E.
JEILAH Y. CHAN, B.Sc., LL.B.

Please Quote

Our ref. 1038-1138 MIS:ah

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E-mail: mistewart@sim-mcburney.com

July 14, 2004

VIA COURIER

The Commissioner of Patents and
Trademarks,
Washington, D.C. 20231,
U.S.A.

Dear Sir:

RE: U.S. Patent Application 09/806,709
Sheena M. Loosmore et al
PROTECTIVE RECOMBINANT HAEMOPHILUS
INFLUENZAE HIGH MOLECULAR WEIGHT PROTEINS

On December 3, 2003, we submitted to the Office a Petition to Withdraw Holding of Abandonment application. A copy of which is enclosed.

To date, we have received no decision with respect to this Petition. It is requested that the Office advise when a decision on this Petition might be expected.

Yours very truly,



Michael I. Stewart -- Reg. No. 24,973

M.I. Stewart:ah
Enclosure.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Sheena M. Loosmore et al.
Appl'n. No. : 09/806,709
Filed : N/A
Title : PROTECTIVE RECOMBINANT HAEMOPHILUS INFLUENZAE
HIGH MOLECULAR WEIGHT PROTEINS
Docket No. : 1038-1138 MIS:sd

COPY

December 3, 2003

BY COURIER

The Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
U.S.A.

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A Notice of Abandonment has been received on this application dated October 24, 2003. A copy of that Notice is enclosed. The abandonment is said to be for:

"...an incomplete reply was received to the Notice mailed on 05/07/2001. The reply did not include:

- A statement that the CRF is the same as the content of the sequence listing on paper or compact disc."

It is submitted that this is incorrect and the Holding of Abandonment should be withdrawn.

A Notification of Missing Requirements was mailed May 7, 2001. This document was a single sheet, copy enclosed as Exhibit I, which made no mention of any requirement for a Sequence Listing. This Notification was responded to on July 26, 2001, meeting the requirements specifically called for in the Notification.

Subsequently, there was received a Notification of Defective Response dated September 3, 2002. This Notification identified that the specification did not contain a Sequence Listing and required submission of:

- An initial or substitute computer readable form (CRF) of the Sequence Listing.
- An initial or paper copy or computer disk of the Sequence Listing, as well as an amendment directing its entry into the specification.

On September 26, 2002, in response to this Notification, there was submitted to the Office a Sequence Listing in computer-readable and hard-copy forms and a Voluntary Amendment directing entry of the Sequence Listing into the specification. A copy of the letter of September 26, 2002 is enclosed as Exhibit II as well as a copy of the return postcard showing receipt by the PTO on September 27, 2002 as Exhibit III.

The letter of September 26, 2002 contains the statement:

"It is hereby stated under the signature of the undersigned that the computer-readable and hard-copy forms of the Sequence Listing are the same."

Thus, the statement said to be missing and causing the Holding of Abandonment is already of record, and hence, the application should not be abandoned.

Accordingly, it is hereby requested that the Holding of Abandonment be withdrawn.

Respectfully submitted,

M.I. Stewart
Reg. No. 24,973

Toronto, Ontario, Canada,
(416) 595-1155
FAX No. (416) 595-1163

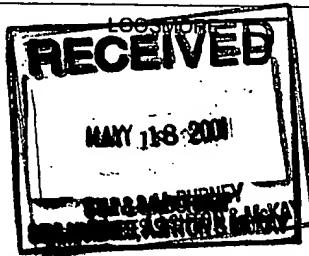


Exhibit I

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/806709		S 1038-1138 MI
INTERNATIONAL APPLICATION NO.		
PCT/CA99/00938		
I.A. FILING DATE		PRIORITY DATE
07 OCT 99		07 OCT 98

SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO, ONT. M5T 1A5

DATE MAILED:

07 MAY 2001

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494) ☒ an Elected Office (37 CFR 1.495):

- | | |
|--|--|
| <input checked="" type="checkbox"/> U.S. Basic National Fee. | <input type="checkbox"/> Indication of Small Entity Status. |
| <input checked="" type="checkbox"/> Copy of the international application. | <input type="checkbox"/> Translation of the international application into English. |
| <input type="checkbox"/> Oath or Declaration of inventors(s). | <input type="checkbox"/> Translation of Article 19 amendments into English. |
| <input type="checkbox"/> Copy of Article 19 amendments. | <input checked="" type="checkbox"/> Other: Inventor Information Sheet; Preliminary Amendment |
| <input checked="" type="checkbox"/> Priority Document. | |
| <input checked="" type="checkbox"/> The International Preliminary Examination Report in English and its Annexes, if any. | |
| <input type="checkbox"/> Translation of Annexes to the International Preliminary Examination Report into English. | |

2. ☐ Applicant has requested early processing under 35 U.S.C. 371(f) but has not filed the following indicated items and/or the indicated items in paragraph 3 below. The Basic National Fee and the copy of the international application must be filed prior to 20 or 30 months from the priority date to avoid abandonment.

- | | |
|---|---|
| <input type="checkbox"/> U.S. Basic National Fee. | <input type="checkbox"/> Copy of the international application. |
|---|---|

3. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- | |
|--|
| <input type="checkbox"/> a. Translation of the application into English. A processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date. |
| <input type="checkbox"/> The current translation is defective for the reasons indicated on the attached Notice of Defective Translation. |
| <input type="checkbox"/> b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)). |
| <input checked="" type="checkbox"/> c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application (preferably by the International application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date. |
| <input type="checkbox"/> The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917. |
| <input checked="" type="checkbox"/> d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)). |

4. Additional claim fees of \$_____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

5. ☐ Applicant has not submitted the required sequence listing pursuant to 37 CFR 1.821-1.825. See attached PCT/DO/EO/920.

ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), 4 AND 5 ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 22 OR 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

6. If box 3a or 3c is checked, a translation of the Annexes **MUST** be submitted no later than the time period set above or the Annexes will be cancelled: A processing fee will be required if submitted later than 20 or 30 months from the priority date.

7. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917
☐ PTO-875

☐ Notice of Defective Translation
☐ PCT/DO/EO/920

Francine Young

Telephone: 703-305-3662

FORM PCT/DO/EO/905 (March 2001)

BEST AVAILABLE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Sheena M. Loosmore, et a.
Appl'n. No. : 09/806,709
Title : PROTECTIVE RECOMBINANT HAEMOPHILUS INFLUENZAE
HIGH MOLECULAR WEIGHT PROTEINS
Docket No. : 1038-1138 MIS:jb
Date : September 26, 2002

BY COURIER

The Commissioner of Patents
and Trademarks,
Box SEQUENCES
Washington, D.C. 20231,
U.S.A.

VOLUNTARY AMENDMENT

Dear Sir:

Please amend this application in the following manner:

In the Specification:

Please add the hard copy of the Sequence Listing following page 64
and immediately preceding the claims.

REMARKS

This Voluntary Amendment inserts the Sequence Listing into the
specification.

Respectfully submitted

Michael I. Stewart
Reg. No. 24,973

Toronto, Ontario, Canada
(416) 595-1155
FAX No. (416) 595-1163

Exhibit III

Date: September 26, 2002

Applicant: Sheena M. Loosmore, et al.

Application No: 09/806,709

Title: PROTECTIVE RECOMBINANT HAEMOPHILUS INFLUENZAE HIGH
MOLEUCULAR WEIGHT PROTEINS

New Appln. Cheque, Formal Papers: ()

Retyped Required in Notice of Allowance: ()

Final Fee: ()

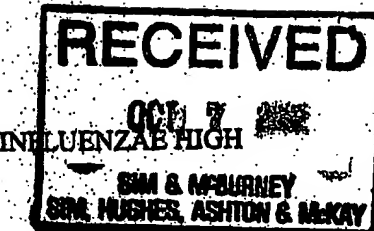
Other: Response to the Notification of Defective Response, Sequence Listing and Diskette
containing Sequence Listing

Due Date: October 3, 2002

Please place the official stamp of the Patent Office on this card and return it to us for our
files to constitute an acknowledgment by the Patent Office of receipt of the above-identified
papers on the date stamped.

SIM & McBURNEY

1038-1138 MIS:jb



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